



United States of America
FEDERAL TRADE COMMISSION
Washington, D.C. 20580

Serena Viswanathan
Associate Director
Division of Advertising Practices

May 29, 2025

VIA ELECTRONIC MAIL

Ashley Fischer
McDermott Will & Emery
444 W. Lake Street
Chicago, IL 60606
AMFischer@mwe.com

Re: Spectrum Vision Partners LLC, FTC Matter No. 2423057

Dear Ms. Fischer:

As you are aware, the staff of the Federal Trade Commission's Division of Advertising Practices has been investigating whether your client, Spectrum Vision Partners, and the associated entity Ophthalmic Consultants of Long Island ("OCLI"), have complied with the Fairness to Contact Lens Consumers Act ("FCLCA"), 15 U.S.C. §§ 7601-7610, the Contact Lens Rule, 16 C.F.R. Part 315, the Ophthalmic Practice Rule ("Eyeglass Rule"), 16 C.F.R. Part 456, and Section 5 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 45. In particular, the investigation concerned whether those entities: fail to automatically provide eyeglass prescriptions at the end of an eye exam, and contact lens prescriptions at the end of a contact lens fitting; charge patients a fee to provide those prescriptions; or otherwise violate the Acts and Rules cited above.

Staff initiated its investigation after learning of complaints that OCLI ophthalmological locations may have been violating the Eyeglass Rule and/or Contact Lens Rule. In particular, there were complaints from patients stating that they had not received their prescription immediately following a refractive exam. There were also complaints that least one office had a sign informing patients that if they wanted their vision prescription, they would have to pay a \$50 fee at checkout. And some patients stated that, indeed, they were charged a fee in exchange for a copy of their prescription.

The Eyeglass Rule provides that prescribers must provide a patient with a copy of the prescription immediately after completing any refractive eye examination, whether or not the patient asks for it and before offering to sell the patient glasses.¹ Asking a patient if they want or

¹ 16 C.F.R. § 456.2. *See also*, "Complying with the Eyeglass Rule," <https://www.ftc.gov/business-guidance/resources/complying-eyeglass-rule>, further noting that the prescription must be provided regardless of the purpose of the exam and whether the prescriber charges for it. A refractive eye examination is defined by the Rule as

need their prescription does not comply with the Rule, and prescribers are required to provide the prescription automatically.

Of course, the Rule does not prohibit prescribers from charging for the services they provide, and thus prescribers can charge for a refractive eye exam. But the Rule does prohibit prescribers from charging a refractive exam fee *in exchange for* a copy of the prescription.² If a prescriber performs an eye exam that includes a refraction, the prescriber must provide the prescription to the patient, no matter the stated purpose of the exam, and regardless of whether the patient is charged for the refractive services.³ The only exception is if it is the prescriber's medical judgment that a patient should not be given a prescription for corrective eyewear.⁴ Accordingly, a prescriber cannot perform refractive eye exams and charge fees only to those who want their prescriptions.⁵

On May 6, 2024, the FTC issued a civil investigative demand to Spectrum Vision Partners, the company administering OCLI's compliance with the Eyeglass Rule and Contact Lens Rule, seeking information about compliance with the Eyeglass Rule and Contact Lens Rule. Based on staff's investigation, it appears that many OCLI patients who received refractive exams were not automatically being given their prescriptions, but instead were asked if they wanted a copy. If they said no, OCLI and Spectrum did not provide the prescription or charge for the refractive exam. If, on the other hand, the patient said yes, they were charged a fee and given a copy of their prescription. While the fee was purportedly for the refractive exam, not for release of the prescription, the fact that only patients who wanted their prescription were charged effectively transformed the charge into an unlawful fee for the prescription. In addition, it appears that many refractive exams were performed for medical or diagnostic purposes, yet OCLI and Spectrum failed to provide their patients with copies of prescriptions. Further, it appears that OCLI and Spectrum failed to consistently obtain signed patient confirmations establishing receipt of their contact lens prescriptions.

Despite such conduct, it does not appear to staff that OCLI and Spectrum were withholding prescriptions as a means of pressuring consumers into purchasing eyeglasses or contact lenses

"the process of determining the refractive condition of a person's eyes or the presence of any visual anomaly by the use of objective or subjective tests." 16 C.F.R. § 456.1(b).

² 16 C.F.R. § 456.2.

³ A free exam, or exam performed for medical or "diagnostic purposes," rather than with the intent to prescribe eyeglasses, does not absolve the prescriber of the obligation to provide the patient with a copy of their prescription. *See* Final Rule, 89 Fed. Reg. 60742, at 60765 (July 26, 2004), where the Commission noted, "the Commission is aware that a refraction can be completed in a variety of contexts, and wishes to clarify that regardless of the purpose of the examination, the prescription should always be released whenever the optometrist or ophthalmologist determines the patient's refractive error."

⁴ *See id.* The discretion to withhold a prescription must be based on a prescriber's *medical* judgment, and thus the prescriber must release the prescription unless they have a medical foundation to believe it is unsound to do so.

⁵ And while a prescriber can require that a patient pay for the refractive exam before giving them a copy of their prescription, they can do this only if the prescriber always requires immediate payment from all eye exam patients, regardless of whether the patient needs corrective eyewear.

from OCLI offices. Spectrum's actions appear, for the most part, to have been inadvertent and due to misunderstandings about the requirements and proper application of the Eyeglass and Contact Lens Rules.

Furthermore, staff has seen evidence of OCLI and Spectrum's new and significantly improved policies, training, and compliance with the Rules since initiation of the FTC investigation. Spectrum has also provided the FTC with written assurances of the steps it has taken and will continue to take to comply with the Eyeglass and Contact Lens Rules. Staff appreciates Spectrum's cooperation and willingness to commit to compliance with the Eyeglass and Contact Lens Rules in the future.

Based in part on these changes and assurances, FTC staff has determined not to recommend enforcement action at this time. The closing of this investigation is not to be construed as a determination that a violation of law did not occur, just as the pendency of an investigation should not be construed as a determination that a violation has occurred.

Very truly yours,

/s/ Serena Viswanathan

Serena Viswanathan
Associate Director